

## **REMARKS**

Claims 1 - 25 are in the application. Claims 1, 19, 20, and 23 are currently amended; claims 3-6, 9, 21, and 22 were previously presented; claims 24 and 25 are canceled; and claims 2, 7, 8, and 10-18 remain unchanged from the original versions thereof. Claims 1, 19, 20, and 23 are the independent claims herein.

No new matter has been added to the application as a result of the amendments submitted herewith. Reconsideration and further examination are respectfully requested.

Generally, Applicants disclose systems and methods to facilitate analysis of a commercial mortgage backed security (CMBS) portfolio. In some embodiments, the disclosed methods and systems relate to providing an analysis regarding a desired level of profitability for the CMBS portfolio. In particular, a determination may be made regarding the profitability of an additional mortgage loan to be added to the CMBS portfolio in accordance with a contribution of the additional mortgage loan to the portfolio, such that a determination or analysis may be made regarding the profitability of the CMBS portfolio as a consequence of including the additional mortgage loan therein. A determination of whether to add the additional mortgage loan to the CMBS portfolio may be based, in some embodiments, on whether the additional mortgage loan contributes to the profitability of the CMBS portfolio (e.g., a combination of the original CMBS portfolio and the additional loan).

### **Claim Rejections under 35 USC § 103(a)**

Claims 1-18 were rejected as being unpatentable over Gould et al. U.S. Patent No. 5,966,700A (hereinafter, Gould) in view of Cwenar, U.S. Patent No. 5,893,079A (hereinafter, Cwenar). This rejection is respectfully traversed.

Applicants' claims 1-18 relate to a method to facilitate analysis of a commercial backed security (CMBS) portfolio. The recited method of independent claim 1 provides, inter alia, determining information associated with an additional mortgage loan to be added to the portfolio in accordance with a contribution of the additional mortgage loan

to the portfolio, including at least one desired profitability value for the additional mortgage loan. Clearly, the claimed method recites and relates to determining information associated with an additional mortgage loan to be added to the portfolio in accordance with a contribution of the additional mortgage loan to the portfolio.

Distinct from Applicant's claims, the cited and relied upon combination of Gould and Cwenar fails to disclose or suggest Applicants' claimed invention. In particular, the cited and relied upon Gould fails to disclose or suggest, at least, Applicants' claimed determining information associated with an additional mortgage loan to be added to the portfolio in accordance with a contribution of the additional mortgage loan to the portfolio, including at least one desired profitability value for the additional mortgage loan.

Gould discloses a management system for allocating risk under a risk allocation agreement (e.g., a Master Commitment agreement). Gould discloses a system for allocating or dispersing the risk of loss or foreclosure for individual mortgages under the risk allocation agreement for a mortgage (or mortgage portfolio) between a mortgage originator and a mortgage funding institution based on, for example, credit enhancement data. (See Gould col. 3, ln. 30-col. 4, ln. 2; and col. 4, ln. 40-45) Gould discloses that the risk allocation agreement may pertain or apply to more than one mortgage, the value associated with the risk allocation, the disclosed credit enhancement, is determined separately for each particular mortgage. That is, risk allocation agreement is determined for each mortgage independently of any others mortgages. Each mortgage is evaluated by determining an credit enhancement for the mortgage to determine if the mortgage will be accepted under the master risk allocation agreement. (See Gould, col. 6, ln. 10-22).

Gould discloses, "each mortgage loan which qualifies as an investment mortgage by meeting the parameters of the risk allocation agreement will be recorded by the program" (col. 6, ln 12-15); "The data from the loan is gathered by the mortgage originator for credit enhancement analysis in step 302. The credit enhancement data includes all the information required to calculate credit enhancement for specific loans

and is classified by several elements such as the borrower, the property, loan amount interest rate, etc.” (col. 6, ln. 33-360); “[T]he program 16 calculates a mortgage score according to well known methods. The mortgage score is a value representing the probability that a loan may foreclose.” (col. 6, ln. 44-47); and “[T]he mortgage score and other data such as income, FICO, property address, property type, occupancy type, loan purpose, loan type, loan amount, interest rate, loan to value ratio, debt ratio, and private mortgage insurance coverage is then input for analysis using the S&P Levels model...The credit enhancement dollar amount is calculated for each specific loan by the S&P level model ...The credit enhancement dollar amount is the expected loss severity applied to the foreclosure frequency which produces the required loss coverage value.” (col. 6, ln. 52-64)

Thus, it is clear that Gould discloses a management system for risk sharing of a loan in mortgage pools that determines and analyzes risks associated with a mortgage or mortgage portfolio. According to Gould, data associated with a probability of risk of failure or foreclosure related to a particular mortgage is provided and/or determined. Gould does not disclose or suggest the claimed determining information associated with an additional mortgage loan to be added to the portfolio in accordance with a contribution of the additional loan to the to the portfolio. The information associated with a mortgage in Gould is a risk allocation determination value (i.e., a credit enhancement value) for the given individual loan independent of any other loan or mortgages that may be included in a portfolio of loans.

Applicants reiterates that the enhancement value and other risk allocation related values disclosed in Gould do not suggest or provide any motivation for the claimed at least one profitability value of claim 1. That is, since the systems and methods of Gould are clearly and fully concerned with the allocation of risk between a loan originator and a funding institution, there is no suggestion or even appreciation of the claimed risk allocation agreement.

Accordingly, Applicants respectfully submit that the cited and relied upon Gould reference does not disclose that for which it was cited and relied upon for disclosing. Thus, combining the disclosure of Gould with the alleged and relied upon "transmitting" of Cwenar fails to render claim 1 obvious.

Therefore, Applicants respectfully submit that claim 1 is patentable over the cited and relied upon Gould and Cwenar under 35 USC 103(a) for at least the reasons discussed above. Furthermore, claims 2-18 depend from claim 1. Applicants respectfully submit that claims 2-18 are patentable over the cited and relied upon Gould and Cwenar for at least the reasons discussed above regarding claim 1. Accordingly, Applicants request the reconsideration and withdrawal of the rejection of claims 1-18 and the allowance of same.

Claims 19-23 were rejected as being unpatentable over Gould in view of Cwenar under 35 USC 103(a). These rejections are respectfully traversed.

Applicants respectfully submit that claims 19-23 are patentable over the cited and relied upon Gould and Cwenar for at least reasons similar to those presented hereinabove regarding claim 1. Accordingly, Applicants respectfully submit that the cited and relied upon Gould reference does not disclose that for which it was cited and relied upon for disclosing.

Therefore, Applicants respectfully submits that claims 19-23 are patentable over the cited and relied upon Gould and Cwenar under 35 USC 103(a) for at least the reasons discussed above regarding claim 1. Accordingly, Applicants request the reconsideration and withdrawal of the rejection of claim 23 and the allowance of same.

### CONCLUSION

Accordingly, Applicants respectfully request allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-5985.

Respectfully submitted,

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